

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN ALLEN,

No. C -08-3798 JL

Plaintiff,

v.

**ORDER REFERRING FOR FINDING
WHETHER CASES SHOULD BE
RELATED**

HOMEQ SERVICING, INC.,

C-08-1698 MMC

Defendant.

The Court received random assignment of this case, which was previously removed to this Court and filed as C-08-1698 MMC, *John Allen v. Homeq Servicing, Inc.* The district court (Hon. Maxine M. Chesney) dismissed the First Amended Complaint with leave to amend and then remanded the case to state court on the grounds that the Second Amended Complaint failed to reallege the federal cause of action contained in the First Amended Complaint. The court having dismissed all claims over which it had original jurisdiction, Judge Cheney declined to exercise supplemental jurisdiction over the remaining claims under state law and remanded the case to state court, pursuant to 28 U.S.C. §1367(c)(3). (Docket # 27, filed July 22, 2008)

Defendant has once again removed and re-filed the case, this time on the basis of diversity jurisdiction, contending that "it has become apparent within the last 30 days that

1 the amount in controversy in this matter exceeds \$75,000.00." (Notice of Removal at 2:25-
2 27).

3 As far as this Court can tell, this case is identical to C-08-1698, remanded by Judge
4 Chesney on July 22.

5 Civil Local Rule 3-12(c) provides:

6 (c) Sua Sponte Judicial Referral for Purpose of Determining Relationship. Whenever
7 a Judge believes that a case pending before that Judge is related to another case,
8 the Judge may refer the case to the Judge assigned to the earliest-filed case with a
9 request that the Judge assigned to the earliest-filed case consider whether the
10 cases are related. The referring Judge shall file and send a copy of the referral to all
11 parties to all affected cases. The parties must file any response in opposition to or
12 support of relating the cases pursuant to Civil L.R. 3-12(d). Alternatively, a Judge
13 may order the parties to file a motion pursuant to Civil L.R. 3-12(b).

14 Accordingly, this Court hereby refers this case to Judge Chesney, as the judge on
15 the earlier-filed case, to decide whether the cases should be related.

16 IT IS SO ORDERED.

17 DATED: August 15, 2008



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James Larson
Chief Magistrate Judge

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